

(A) The Statement of Trial Results under section 860 of this title (article 60).

(B) Any modifications of, or supplements to, the Statement of Trial Results by reason of—
 (i) any post-trial action by the convening authority; or
 (ii) any ruling, order, or other determination of the military judge that affects a plea, a finding, or the sentence.

(2) Under rules prescribed by the President, the judgment under paragraph (1) shall be—

(A) provided to the accused and to any victim of the offense; and
 (B) made available to the public.

(b) SUMMARY COURT-MARTIAL JUDGMENT.—The findings and sentence of a summary court-martial, as modified by any post-trial action by the convening authority under section 860b of this title (article 60b), constitutes the judgment of the court-martial and shall be recorded and distributed under rules prescribed by the President.

(Added Pub. L. 114-328, div. E, title LIX, §5324, Dec. 23, 2016, 130 Stat. 2927.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328 and Ex. Ord. 13825, set out as notes under section 801 of this title.

§ 861. Art. 61. Waiver of right to appeal; withdrawal of appeal

(a) WAIVER OF RIGHT TO APPEAL.—After entry of judgment in a general or special court-martial, under procedures prescribed by the Secretary concerned, the accused may waive the right to appellate review in each case subject to such review under section 866 of this title (article 66). Such a waiver shall be—

(1) signed by the accused and by defense counsel; and
 (2) attached to the record of trial.

(b) WITHDRAWAL OF APPEAL.—In a general or special court-martial, the accused may withdraw an appeal at any time.

(c) DEATH PENALTY CASE EXCEPTION.—Notwithstanding subsections (a) and (b), an accused may not waive the right to appeal or withdraw an appeal with respect to a judgment that includes a sentence of death.

(d) WAIVER OR WITHDRAWAL AS BAR.—Except as provided by section 869(c)(2) of this title (article 69(c)(2)), a waiver or withdrawal under this section bars review under section 866 of this title (article 66).

(Aug. 10, 1956, ch. 1041, 70A Stat. 58; Pub. L. 98-209, §5(b)(1), Dec. 6, 1983, 97 Stat. 1397; Pub. L. 114-328, div. E, title LIX, §5325, Dec. 23, 2016, 130 Stat. 2928; Pub. L. 117-263, div. A, title V, §544(a), Dec. 23, 2022, 136 Stat. 2582.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
861	50:648.	May 5, 1950, ch. 169, §1 (Art. 61), 64 Stat. 127.

The word “each” is substituted for the word “every”.

Editorial Notes

AMENDMENTS

2022—Subsec. (d). Pub. L. 117-263 substituted “Except as provided by section 869(c)(2) of this title (article 69(c)(2)), a waiver” for “A waiver”.

2016—Pub. L. 114-328 amended section generally. Prior to amendment, section related to waiver or withdrawal of appeal.

1983—Pub. L. 98-209 amended section generally, substituting “Waiver or withdrawal of appeal” for “Same—General court-martial records” as section catchline, and, in text, substituting provisions relating to waiver or withdrawal of appeal for provisions relating to initial action by the convening authority on general court-martial records.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117-263, div. A, title V, §544(d), Dec. 23, 2022, 136 Stat. 2583, provided that: “The amendments made by this section [amending this section and sections 866 and 869 of this title] shall not apply to—

“(1) any matter that was submitted before the date of the enactment of this Act [Dec. 23, 2022] to a Court of Criminal Appeals established under section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice); or

“(2) any matter that was submitted before the date of the enactment of this Act to a Judge Advocate General under section 869 of such title (article 69 of the Uniform Code of Military Justice).”

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-209 effective first day of eighth calendar month beginning after Dec. 6, 1983, but not to apply to any case in which the findings and sentence were adjudged by a court-martial before that date, and the proceedings in any such case to be held in the same manner and with the same effect as if such amendments had not been enacted, see section 12(a)(1), (4) of Pub. L. 98-209, set out as a note under section 801 of this title.

§ 862. Art. 62. Appeal by the United States

(a)(1) In a trial by general or special court-martial, or in a pretrial proceeding under section 830a of this title (article 30a), the United States may appeal the following:

(A) An order or ruling of the military judge which terminates the proceedings with respect to a charge or specification.

(B) An order or ruling which excludes evidence that is substantial proof of a fact material in the proceeding.

(C) An order or ruling which directs the disclosure of classified information.

(D) An order or ruling which imposes sanctions for nondisclosure of classified information.

(E) A refusal of the military judge to issue a protective order sought by the United States to prevent the disclosure of classified information.